Calendar No. ____

108TH CONGRESS
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S. 380

[Report No. 108–___]

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2003

Ms. COLLINS (for herself, Mr. CARPER, Mr. BROWNBACK, Mr. STEVENS, Mr. VOINOVICH, Mr. LIEBERMAN, Mr. DURBIN, Mr. ALLEN, Mr. BENNETT, Mr. PRYOR, Mr. JEFFORDS, Mr. SUNUNU, and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on Governmental Affairs

MARCH ____ (legislative day, ____________), 2003

Reported by Ms. COLLINS, from the Committee on Governmental Affairs, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To amend chapter 83 of title 5, United States Code, to reform the funding of benefits under the Civil Service Retirement System for employees of the United States Postal Service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

~~**SECTION 1. SHORT TITLE.**~~

~~This Act may be cited as the "Postal Civil Service Retirement System Funding Reform Act of 2003".~~

~~**SEC. 2. CIVIL SERVICE RETIREMENT SYSTEM.**~~

~~(a) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—~~

~~(1) in paragraph (17)—~~

~~(A) by striking "normal cost" the first place that term appears and inserting "normal cost percentage"; and~~

~~(B) by inserting "and standards (using dynamic assumptions)" after "practice";~~

~~(2) by striking paragraph (18) and inserting the following:~~

~~"(18) 'Fund balance'—~~

~~"(A) means the current net assets of the Fund available for payment of benefits, as determined by the Office in accordance with appropriate accounting standards; and~~

~~"(B) shall not include any amount attributable to—~~

~~"(i) the Federal Employees' Retirement System; or~~

~~"(ii) contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983~~

~~by or on behalf of any individual who became subject to the Federal Employees' Retirement System;";~~

~~(3) in paragraph (27), by striking "and" at the end;~~

~~(4) in paragraph (28), by striking the period and inserting "; and"; and~~

~~(5) by adding at the end the following:~~

~~"(29) 'dynamic assumptions' means economic assumptions that are used in determining actuarial costs and liabilities of a retirement system and in anticipating the effects of long-term future—~~

~~"(A) investment yields;~~

~~"(B) increases in rates of basic pay; and~~

~~"(C) rates of price inflation.".~~

~~(b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended by striking the matter following the section heading through paragraph (1) and inserting the following:~~

~~"(a)(1)(A) The employing agency shall deduct and withhold from the basic pay of an employee, Member, congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate judge, Court of Federal Claims judge, member of the Cap-~~

~~itol Police, member of the Supreme Court Police, or nuclear materials courier, as the case may be, the percentage of basic pay applicable under subsection (c).~~

~~"(B)(i) Except in the case of an employee of the United States Postal Service, an equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.~~

~~"(ii) In the case of an employee of the United States Postal Service, an amount shall be contributed from the appropriation or fund used to pay the employee equal to the difference between—~~

~~"(I) the product of—~~

~~"(aa) the basic pay of that employee; and~~

~~"(bb) the normal cost percentage applicable to the employee category of that employee under paragraph (1)(A); and~~

~~"(II) the product of—~~

~~“(aa) the basic pay of that employee; and~~

~~“(bb) the percentage applicable to that employee under subsection (c) deducted from basic pay under paragraph (1)(A).”.~~

~~(c) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—~~

~~(1) IN GENERAL.—Section 8348 of title 5, United States Code, is amended by striking subsection (h) and inserting the following:~~

~~“(h)(1)(A) In this subsection, the term ‘Postal supplemental liability’ means the estimated excess, as determined by the Office of Personnel Management, of the difference between—~~

~~“(i) the actuarial present value of all future benefits payable from the Fund under this subchapter attributable to the service of current or former employees of the United States Postal Service; and~~

~~“(ii) the sum of—~~

~~“(I) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;~~

~~“(II) the actuarial present value of the future contributions to be made under section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter;~~

~~“(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and employees of the United States Postal Service, including earnings on those payments; and~~

~~“(IV) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.~~

~~“(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits attributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.~~

~~“(ii) Military service included in the computation under clause (i) shall not be included in computation of the payment required under subsection (g)(2).~~

~~“(2)(A) Not later than June 30, 2004, the Office of Personnel Management shall determine the Postal supplemental liability, as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.~~

~~“(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.~~

~~“(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning after September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.~~

~~“(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles, with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System.~~

~~“(E) The United States Postal Service shall pay the amounts determined under this paragraph for deposit in the Fund, with payments due not later than the date scheduled by the Office.~~

~~“(3) Notwithstanding any other provision of law, in computing the amount of any payment under any provision other than this subsection that is based upon the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.”.~~

~~(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 8334 of title 5, United States Code, is amended by striking subsection (m).~~

~~(d) OTHER PAYMENTS.—~~

~~(1) IN GENERAL.—Section 7101(c) of the Omnibus Budget Reconciliation Act of 1990 (5 U.S.C. 8348 note; Public Law 101–508; 104 Stat. 1388–331) is repealed.~~

~~(2) EFFECT ON PRIOR PAYMENTS.—The repeal under paragraph (1) shall have no effect on payments made under the repealed provisions before the date of enactment of this Act.~~

~~SEC. 3. DISPOSITION OF SAVINGS ACCRUING TO THE UNITED STATES POSTAL SERVICE.~~

~~(a) IN GENERAL.—Savings accruing to the United States Postal Service as a result of the enactment of this Act shall be used to reduce the postal debt to such extent and in such manner as the Secretary of the Treasury shall specify, consistent with succeeding provisions of this section.~~

~~(b) AMOUNTS SAVED.—~~

~~(1) IN GENERAL.—The amounts representing any savings accruing to the Postal Service in any fiscal year as a result of the enactment of this Act shall be computed by the Office of Personnel Management in accordance with paragraph (2).~~

~~(2) METHODOLOGY.—Not later than July 31, 2003, for fiscal year 2003, and October 1 of the fiscal year before each fiscal year beginning after September 30, 2003, and before the date specified in paragraph (4), the Office of Personnel Management shall—~~

~~(A) formulate a plan specifically enumerating the methods by which the Office shall make its computations under paragraph (1); and~~

~~(B) submit such plan to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.~~

~~(3) REQUIREMENTS.—Each such plan shall be formulated in consultation with the Postal Service and shall include the opportunity for the Postal Service to request reconsideration of computations under this subsection, and for the Board of Actuaries of the Civil Service Retirement System to review and make adjustments to such computations, to the same extent and in the same manner as provided under section 8423(c) of title 5, United States Code.~~

~~(4) DURATION.—Nothing in this subsection or subsection (a) shall be considered to apply with respect to any fiscal year beginning on or after October 1, 2007.~~

~~(c) REPORTING REQUIREMENT.—The Postal Service shall include in each report which is rendered under section 2402 of title 39, United States Code, and which relates to any period after the date of the enactment of this~~

~~Act and before the date specified in subsection (b)(4), the amount applied toward reducing the postal debt, and the size of the postal debt before and after the application of subsection (a), during the period covered by such report.~~

~~(d) POSTAL DEBT DEFINED.—For purposes of this section, the term "postal debt" means the outstanding obligations of the Postal Service, as determined under chapter 20 of title 39, United States Code.~~

~~(e) SENSE OF CONGRESS.—It is the sense of the Congress that—~~

~~(1) the savings accruing to the Postal Service as a result of the enactment of this Act will be sufficient to allow the Postal Service to fulfill its commitment to hold postage rates unchanged until at least 2006;~~

~~(2) because the Postal Service still faces substantial obligations related to postretirement health benefits for its current and former employees, some portion of the savings referred to in paragraph (1) should be used to address those unfunded obligations; and~~

~~(3) none of the savings referred to in paragraph (1) should be used to pay bonuses to Postal Service executives.~~

~~(f) REPORT RELATING TO UNFUNDED HEALTHCARE COSTS.—~~

~~(1) IN GENERAL.—The United States Postal Service shall, by December 31, 2003, in consultation with the General Accounting Office, prepare and submit to the President and the Congress a report describing how the Postal Service proposes to address its obligations relating to unfunded postretirement healthcare costs of current and former postal employees.~~

~~(2) PRESIDENT'S COMMISSION.—In preparing its report under this subsection, the Postal Service should consider the report of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).~~

~~(3) GAO REVIEW AND REPORT.—Not later than 30 days after the Postal Service submits its report pursuant to paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of such report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.~~

~~(g) DETERMINATION AND DISPOSITION OF SURPLUS.—~~

~~(1) IN GENERAL.—If, as of the date under paragraph (2), the Office of Personnel Management determines (after consultation with the Postmaster General) that the computation under section 8348(h)(1)(A) of title 5, United States Code, yields a negative amount (hereinafter referred to as a "surplus")—~~

~~(A) the Office shall inform the Postmaster General of its determination, including the size of the surplus so determined; and~~

~~(B) the Postmaster General shall submit to the Congress a report describing how the Postal Service proposes that such surplus be used, including a draft of any legislation that might be necessary.~~

~~(2) DETERMINATION DATE.—The date to be used for purposes of paragraph (1) shall be September 30, 2025, or such earlier date as, in the judgment of the Office, is the date by which all postal employees under the Civil Service Retirement System will have retired.~~

~~SEC. 4. EFFECTIVE DATE.~~

~~(a) IN GENERAL.—This Act shall take effect on the date of enactment of this Act.~~

~~(b) APPLICATION.—Section 8334(a)(1)(B)(ii) of title 5, United States Code (as added by section 2(b) of this Act), shall apply only with respect to pay periods beginning on or after the date of enactment of this Act.~~

SECTION 1. SHORT TITLE.

This Act may be cited as the "Postal Civil Service Retirement System Funding Reform Act of 2003".

SEC. 2. CIVIL SERVICE RETIREMENT SYSTEM.

(a) DEFINITIONS.—Section 8331 of title 5, United States Code, is amended—

(1) in paragraph (17)—

(A) by striking "normal cost" the first place that term appears and inserting "normal cost percentage"; and

(B) by inserting "and standards (using dynamic assumptions)" after "practice";

(2) by striking paragraph (18) and inserting the following:

"(18) 'Fund balance'—

"(A) means the current net assets of the Fund, as determined by the Office in accordance with appropriate accounting standards; and

"(B) shall not include any amount attributable to—

"(i) the Federal Employees' Retirement System; or

"(ii) contributions made under the Federal Employees' Retirement Contribution Temporary Adjustment Act of 1983 by or on behalf of any individual who became subject to the Federal Employees' Retirement System;";

(3) in paragraph (27), by striking "and" at the end;

(4) in paragraph (28), by striking the period and inserting "; and"; and

(5) by adding at the end the following:

"(29) 'dynamic assumptions' means economic assumptions that are used in determining actuarial costs and liabilities of a retirement system and in anticipating the effects of long-term future—

"(A) investment yields;

"(B) increases in rates of basic pay; and

"(C) rates of price inflation.".

(b) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—Section 8334 of title 5, United States Code, is amended by striking the matter following the section heading through paragraph (1) and inserting the following:

"(a)(1)(A) The employing agency shall deduct and withhold from the basic pay of an employee, Member, congressional employee, law enforcement officer, firefighter, bankruptcy judge, judge of the United States Court of Appeals for the Armed Forces, United States magistrate judge, Court of Federal Claims judge, member of the Capitol Police, member of the Supreme Court Police, or nuclear materials courier, as the case may be, the percentage of basic pay applicable under subsection (c).

"(B)(i) Except in the case of an employee of the United States Postal Service, an equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Chief Administrative Officer of the House of Representatives, the Chief Administrative Officer may pay from the applicable accounts of the House of Representatives the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

"(ii) In the case of an employee of the United States Postal Service, an amount shall be contributed from the appropriation or fund used to pay the employee equal to the difference between—

"(I) the product of—

"(aa) the basic pay of that employee; and

"(bb) the normal cost percentage applicable to the employee category of that employee under paragraph (1)(A); and

"(II) the product of—

"(aa) the basic pay of that employee; and

"(bb) the percentage applicable to that employee under subsection (c) deducted from basic pay under paragraph (1)(A).".

(c) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—

(1) IN GENERAL.—Section 8348 of title 5, United States Code, is amended by striking subsection (h) and inserting the following:

"(h)(1)(A) In this subsection, the term 'Postal supplemental liability' means the estimated excess, as determined by the Office of Personnel Management, of the difference between—

"(i) the actuarial present value of all future benefits payable from the Fund under this subchapter attributable to the service of current or former employees of the United States Postal Service; and

"(ii) the sum of—

"(I) the actuarial present value of deductions to be withheld from the future basic pay of employees of the United States Postal Service currently subject to this subchapter under section 8334;

"(II) the actuarial present value of the future contributions to be made under section 8334 with respect to employees of the United States Postal Service currently subject to this subchapter;

"(III) that portion of the Fund balance, as of the date the Postal supplemental liability is determined, attributable to payments to the Fund by the United States Postal Service and employees of the United States Postal Service, including earnings on those payments; and

"(IV) any other appropriate amount, as determined by the Office in accordance with generally accepted actuarial practices and principles.

"(B)(i) In computing the actuarial present value of future benefits, the Office shall include the full value of benefits attributable to military and volunteer service for United States Postal Service employees first employed after June 30, 1971, and a prorated share of the value of benefits at-

tributable to military and volunteer service for United States Postal Service employees first employed before July 1, 1971.

"(ii) Military service included in the computation under clause (i) shall not be included in computation of the payment required under subsection (g)(2).

"(2)(A) Not later than June 30, 2004, the Office of Personnel Management shall determine the Postal supplemental liability, as of September 30, 2003. The Office shall establish an amortization schedule, including a series of equal annual installments commencing September 30, 2004, which provides for the liquidation of such liability by September 30, 2043.

"(B) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year, for each fiscal year beginning after September 30, 2003, through the fiscal year ending September 30, 2038, and shall establish a new amortization schedule, including a series of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability by September 30, 2043.

"(C) The Office shall redetermine the Postal supplemental liability as of the close of the fiscal year for each fiscal year beginning after September 30, 2038, and shall establish a new amortization schedule, including a series

of equal annual installments commencing on September 30 of the subsequent fiscal year, which provides for the liquidation of such liability over 5 years.

"(D) Amortization schedules established under this paragraph shall be set in accordance with generally accepted actuarial practices and principles based on the dynamic interest rate.

"(E) The United States Postal Service shall pay the amounts determined under this paragraph for deposit in the Fund, with payments due not later than the date scheduled by the Office.

"(3) Notwithstanding any other provision of law, in computing the amount of any payment under any provision other than this subsection that is based upon the amount of the unfunded liability, such payment shall be computed disregarding that portion of the unfunded liability that the Office determines will be liquidated by payments under this subsection.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 8334 of title 5, United States Code, is amended by striking subsection (m).

(d) OTHER PAYMENTS.—

(1) IN GENERAL.—Section 7101(c) of the Omnibus Budget Reconciliation Act of 1990 (5 U.S.C. 8348

note; Public Law 101–508; 104 Stat. 1388–331) is repealed.

(2) EFFECT ON PRIOR PAYMENTS.—The repeal under paragraph (1) shall have no effect on payments made under the repealed provisions before the date of enactment of this Act.

SEC. 3. DISPOSITION OF SAVINGS ACCRUING TO THE UNITED STATES POSTAL SERVICE.

(a) DEFINITION.—In this section, the term ''postal debt'' means the outstanding obligations of the Postal Service, as determined under chapter 20 of title 39, United States Code.

(b) IN GENERAL.—Savings accruing to the United States Postal Service as a result of the enactment of this Act shall be used to reduce the postal debt to such extent and in such manner as the Secretary of the Treasury, in consultation with the United States Postal Service, shall specify, consistent with this section.

(c) AMOUNTS SAVED.—

(1) IN GENERAL.—The amounts representing any savings accruing to the Postal Service in any fiscal year as a result of the enactment of this Act shall be computed by the Office of Personnel Management in accordance with paragraph (2).

(2) METHODOLOGY.—Not later than July 31, 2003, the Office of Personnel Management shall—

(A) formulate a plan specifically enumerating the actuarial methods and assumptions by which the Office shall make its computations under paragraph (1); and

(B) submit the plan to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(3) REQUIREMENTS.—The plan shall be formulated in consultation with the Postal Service and shall include the opportunity for the Postal Service to request reconsideration of computations under this subsection, and for the Board of Actuaries of the Civil Service Retirement System to review and make adjustments to such computations, to the same extent and in the same manner as provided under section 8423(c) of title 5, United States Code.

(4) DURATION.—Nothing in this subsection or subsection (b) shall be considered to apply with respect to any fiscal year beginning on or after October 1, 2007.

(d) REPORTING REQUIREMENT.—The Postal Service shall include in each report which is rendered under section

2402 of title 39, United States Code, and which relates to any period after the date of the enactment of this Act and before the date specified in subsection (c)(4), the amount applied toward reducing the postal debt, and the size of the postal debt before and after the application of subsection (b), during the period covered by the report.

(e) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the savings accruing to the Postal Service as a result of the enactment of this Act will be sufficient to allow the Postal Service to fulfill its commitment to hold postage rates unchanged until at least calendar year 2006;

(2) because the Postal Service still faces substantial obligations related to postretirement health benefits for its current and former employees, some portion of the savings referred to under paragraph (1) should be used to address those unfunded obligations; and

(3) none of the savings referred to under paragraph (1) should be used in the computation of bonuses to Postal Service executives or managers.

(f) REPORT RELATING TO UNFUNDED HEALTHCARE COSTS.—

(1) In general.—Not later than December 31, 2003, the United States Postal Service shall prepare and submit to the President and Congress a report that—

(A) describes how the Postal Service proposes to address its obligations relating to unfunded postretirement healthcare costs of current and former postal employees; and

(B) outlines how prior and future actuarial accrued costs for postretirement healthcare benefits and the amounts necessary to prefund those costs are treated for purposes of financial statement reporting and establishing rates of postage and fees for postal services.

(2) President's commission.—In preparing the report under this subsection, the Postal Service should consider the report of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).

(3) GAO review and report.—Not later than 60 days after the Postal Service submits the report under paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of the report to the Committee on Governmental Affairs of

the Senate and the Committee on Government Reform of the House of Representatives.

(g) DETERMINATION AND DISPOSITION OF SURPLUS.—

(1) IN GENERAL.—If, as of the date under paragraph (2), the Office of Personnel Management determines (after consultation with the Postmaster General) that the computation under section 8348(h)(1)(A) of title 5, United States Code, yields a negative amount (hereinafter referred to as a "surplus")—

(A) the Office shall inform the Postmaster General of its determination, including the size of the surplus so determined; and

(B) the Postmaster General shall submit to Congress a report describing how the Postal Service proposes that surplus be used, including a draft of any necessary legislation.

(2) DETERMINATION DATE.—The date to be used for purposes of paragraph (1) shall be September 30, 2025, or such earlier date as, in the judgment of the Office, is the date by which all postal employees under the Civil Service Retirement System will have retired.

(h) DISPOSITION OF SAVINGS REPORTS.—

(1) In general.—Not later than December 31, 2004, and after that date, not later than 8 months preceding the date on which the Postal Service submits any request for a recommended decision of rate adjustments under section 3622 of title 39, United States Code, the Postal Service shall submit to the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the General Accounting Office a report (including a letter of comment on the report from the Secretary of the Treasury) on recommendations for the disposition of future savings accruing to the Postal Service as a result of the enactment of this Act that considers—

(A) whether, and to what extent, those future savings should be used to address—

(i) debt repayment;

(ii) prefunding of postretirement healthcare benefits for current and former postal employees;

(iii) productivity and cost saving capital investments;

(iv) maintaining postal rate stability; and

(v) any other matter; and

(B) the report of the President's Commission on the United States Postal Service under section 5 of Executive Order 13278 (67 Fed. Reg. 76672).

(2) GAO REVIEW AND REPORT.—Not later than 45 days after the Postal Service submits a report under paragraph (1), the General Accounting Office shall prepare and submit a written evaluation of the report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(3) POSTAL SERVICE ACTION ON RECOMMENDATIONS.—The Postal Service may not take any action to implement any recommendation for the disposition of future savings in any report submitted under paragraph (1), until 90 days after the date on which that report is submitted.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act shall take effect on the date of enactment of this Act.

(b) APPLICATION.—Section 8334(a)(1)(B)(ii) of title 5, United States Code (as added by section 2(b) of this Act), shall apply only with respect to pay periods beginning on or after the date of enactment of this Act.